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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	MAIL STOP AMENDMENT
Fumino Okamoto et al.)	Group Art Unit: 3623
Application No.: 09/904,528)	Examiner: Jonathan G. Sterrett
Filed: July 16, 2001)	Confirmation No.: 2297
For: SYSTEM AND METHOD CAPABLE OF)	
APPROPRIATELY MANAGING)	
CUSTOMER INFORMATION AND)	
COMPUTER-READABLE RECORDING)	
MEDIUM HAVING CUSTOMER)	
INFORMATION MANAGEMENT)	
PROGRAM RECORDED THEREIN)	

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Following the first substantive Office Action and response thereto, the Examiner has identified three groups of claims and required the Applicants to elect a single invention for prosecution, under 35 U.S.C. § 121. Applicants traverse this requirement.

The two criteria for a proper restriction requirement are set forth in MPEP §803, namely (1) the inventions must be independent or distinct as claimed, and (2) there would be a serious burden on the Examiner if restriction is not required. It is respectfully submitted that both of these criteria have not been met in the present circumstances. Specifically, there is no showing that the failure to require a restriction at this stage of prosecution imposes a serious burden on the Examiner. All of the claims that are the subject of the restriction have already been searched and examined on their merits, as reflected in the first Office Action. What further burden would be imposed if the Examiner continues to consider each of those claims? To the extent that non-coextensive searches might have supported a restriction requirement prior to the first Office Action, such a basis no longer exists now that the claims have been examined on their merits.

Accordingly, it is respectfully submitted that the Office Action dated April 5, 2006 does not set forth a proper restriction requirement, for at least the reason that there is no serious burden on the Examiner if restriction is not required. Withdrawal of the restriction requirement is submitted to be in order. Nevertheless, in order that this response be considered to be complete, and without acquiescing in the requirement, the following provisional election is provided.

The three inventions identified by the Examiner are:

- I. Imaging a customer and purchased item information to provide a correlation,
- II. Distinguishing between purchasers and non-purchasers using images,
- III. Imaging customers and non-customers to count their visits to a shop.

Pursuant to the Examiner's requirement, the Applicants provisionally elect the subject matter of Invention I, which includes claims 1-4, 5, 6 and 24-36, subject to the traverse set forth above.

Continued examination and favorable action on all pending claims are respectfully requested.

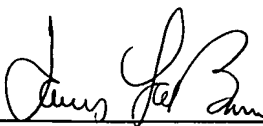
In the event this paper is not considered to be timely filed, Applicants hereby petition for an appropriate extension of time. The Commissioner is authorized to charge payment for any additional fees which may be required with respect to this paper to Deposit Account No 02-4800.

Respectfully submitted,

BUCHANAN INGERSOLL PC

Date: May 2, 2006

By: _____


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